

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**EDWARD KEVELIER, JR. AND)
19102 WALDROP, LLC)**

Plaintiffs,

v.

**LM GENERAL INSURANCE)
COMPANY,)**

Defendant.)

CIVIL ACTION FILE NO.:

**DEFENDANT LM GENERAL INSURANCE COMPANY’S
NOTICE OF REMOVAL**

COMES NOW LM General Insurance Company (hereafter “LM General”), and files its Notice of Removal pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1441 and 1446(a) and (b).

1.

The Plaintiffs have filed a civil action against LM General in the State Court of DeKalb County, Georgia, Civil Action File No. 22A04794, (the “underlying action”) which is located within the Atlanta Division of the United States District Court for the Northern District of Georgia. See 28 U.S.C. § 90(a)(2).

2.

The Plaintiffs filed their Complaint in the underlying action on or about December 12, 2022. (Exhibit “A”, Complaint.) The Summons and Complaint was served on Liberty Mutual on or about December 13, 2022. (Id.)

3.

In their Complaint, Plaintiffs allege that they are “owners of the condominium unit located at 19102 Waldrop Cv., Decatur, Georgia 30034 (the “Property”). (Ex. A, Complaint, ¶ 1.) Pursuant to the Georgia Secretary of State website, Plaintiff 19102 Waldrop, LLC is a domestic limited liability company. The signatory is Plaintiff Edward Kevelier, Jr. with 1705 Wellborn Road, Lithonia, GA, 30058-5433, USA as the principal office address. In other words, both Plaintiffs are citizens of the State of Georgia.

4.

Plaintiffs further allege that their cause of action arises out of direct physical loss and water damage to their property located at 19102 Waldrop CV., Decatur, Georgia 30034. (Id. at ¶ 8.)

5.

LM General is an insurance company organized and existing under the laws of the State of Illinois, with its principal place of business located at 2815 Forbs

Avenue, Suite 200, Hoffman Estates, IL, 60192, USA and its principal place of business is 175 Berkeley Street, Boston, Massachusetts There is no evidence that either Plaintiff is a citizen of either Illinois or Massachusetts.

6.

Therefore, at the time of removal, the Complaint asserts claims by two citizens of the State of Georgia against only a non-citizen Defendant, Liberty Mutual, and there is complete diversity of citizenship.

7.

In their Complaint, Plaintiffs allege that they made a demand prior to filing suit. (Ex. A, Complaint, ¶ 17.) In Defendant's Answer, Defendant attached a copy of Plaintiffs' demand letter as Exhibit 1. (Answer, ¶ 19.) Attached to the demand are three xactimates from RFMG, LLC. The first xactimate was to tear out the existing damage in the amount of \$23,993.91. The second xactimate was for the mold remediation in the amount of \$32,022.37. Then, the third xactimate was for the repairs in the amount of \$88,985.84. In other words, the total damages are \$145,002.12. Because this amount exceeds \$75,000, the amount in controversy is ripe for removal.

8.

This is a civil action of which this Court has original jurisdiction under the provisions

of 28 U.S.C. § 1332 based on complete diversity of citizenship among the parties and which may be removed to this Court pursuant to 28 U.S.C. § 1441.

More specifically, the removal of this action is made on the basis of diversity jurisdiction under 28 U.S.C. § 1332(a) in that the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs and is between citizens of different states.

9.

This Notice of Removal is filed within thirty (30) days of the date of service of the Complaint on LM General.

10.

Defendant attaches as Exhibit “A” to this original pleading only, the entire record in the Superior Court of Gwinnett County, Georgia action.

11.

The undersigned has read this Notice of Removal, and to the best of the undersigned’s knowledge, information and belief, formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law, and it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

WHEREFORE, Defendant hereby removes this action to the United States District Court for the Northern District of Georgia, Atlanta Division.

Respectfully submitted, this 11th day of January 2023.

ISENBERG & HEWITT, P.C.

/s/ Hilary W. Hunter

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LOCAL RULE 7.1 CERTIFICATE

The undersigned counsel hereby certifies that this pleading was prepared with one of the font and point selections approved by the Court in L.R. 5.1.C. Specifically, Times New Roman was used in 14 point.

ISENBERG & HEWITT, P.C.

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